

**Buck Creek Condominium Association**  
**ANNUAL HOMEOWNERS MEETING MINUTES**

**July 5, 2019**

**Comfort Inn, Avon, Colorado 81620**

**Those Attending:**

Deb and Jack McBride, President (C-202)  
Ed Clark (B-301)  
Ken Fishleigh, Member at large (C-104)  
Julie Mackay Percy, Member at Large (A-202)  
Mike and Kathleen Moore, Secretary/ Treasurer (C-101)  
Lisa DeMeillac (A-103)  
Brad Norris (B-205)  
Lyle McIntosh (B-202)  
Kenneth Monnig (B-106)  
Betty and Gordon Poeschel (A-201)  
Mark Millar, virtually, (B-104)  
Sandy and Nate Brightwell, Member at Large (A-102)  
Darrell Cooter, Association Manager

**Proxies Received:**

C-203  
B-204  
B-302  
B-105  
B-102  
A-204  
C-301  
A-203  
C-302

**Proxies Presented:**

There were nine proxies presented.

**Quorum:**

A quorum was established with 21 owners represented. The meeting was called to order by President, Jack McBride, at 10:03 a.m.

**Minutes:**

A draft copy of the 2018 Annual Meeting Minutes was emailed to all homeowners and was posted on

the website. A motion was made to accept the minutes as presented by Nate Brightwell. The motion was seconded by Lisa DeMeillac and was approved unanimously.

### **Treasurer's Report:**

Darrell Cooter, the Association manager, presented the Treasurer's Report.

The fiscal year for the Association ends on June 30, 2019. For this reason, these are DRAFT financials. June invoices have not been entered, therefore there are a few items not included in this document. A final version will be sent to homeowners when it is available.

A draft Statement of Assets, Liabilities and Equity—Income Tax Basis and a draft Statements of Revenue and Expense—Income Tax Basis were distributed and are attached to this document. Also attached is Comparison to Budget—Year to Date. There was a net income, tentatively, of \$18,017.95. It was moved, by Nate Brightwell, to move this income to the Reserve. This motion was seconded by Lyle McIntosh. It passed unanimously.

Darrell gave a summary of the financials. Electricity was higher than expected, repairs and maintenance and lawn care were lower than budgeted. We have budgeted replacing 3 decks/ year and those did not get done this year. So, those will, theoretically, be done next year, in addition to the 3 we are scheduled to replace next year. Darrell is trying to get that scheduled.

Gordon Poeschel moved to approve the treasurer's report and Nate Brightwell seconded. Unanimously approved.

### **Management Report:**

Annual inspection of the units revealed that several units need attention, especially the fireplaces, some of which should be remedied quickly for safety reasons. Owners are responsible for the repairs and must submit proof of the repairs to Darrell, who must have the fireplaces reinspected after the repairs are complete. Some of the repairs will cost \$400 - \$500. B206 is also responsible for taking remedial action for its fireplace, because the owners installed untested aftermarket fireplace doors, which present a serious risk of fire. According to the Fire Marshal of the Eagle River Valley Fire Protection District, these doors must either be tested under the Underwriters' Laboratories tests required by the applicable governmental agencies, or the doors must be permanently removed from the condo. The owners have been asked to remove these aftermarket doors several times in the past, for the safety of the Association, and have thus far refused to do so. A copy of the results of the fireplace inspections and the repairs necessary for that is attached to these minutes.

### **Old Business:**

Service Dogs: last year we realized we are out of compliance w/ ADA and FHA requirements regarding requests by persons with disabilities to live or stay at Buck Creek with Service or Assistance/Emotional Support Animals, and the right for the requesting person to do so if the all of the legal requirements are met by both the person and the animal. Julie Mackay Percy has done extensive research on these extensive laws and has written a detailed report for the owners and Association Board and management

agent to understand how these laws work, as well as a form for use by owners if a request is made, and new rules to incorporate the requirements into our rules and regulations. These documents assist the unit owner in complying with the laws if they receive a request for a person to rent or stay in their condo with a Service or Assistance Animal. The homeowner does not have a choice and must permit the animal to stay or live in the unit if the requirements are met. If the animal causes damage to a common area or other problems, the owner or controller of the animal, and the owner of the condo in which the animal is living, will be responsible. A motion was made to accept the new Service/Assistance Animal rules by Kathleen Moore and seconded by Deb McBride. It was unanimously approved.

The owners also voted to approve rules which allow owners to have guests with a dog or cat as long as the owner is present with the guest throughout the dog's or cat's stay.

**Website Info:** [www.buckcreekcondos.com](http://www.buckcreekcondos.com) Username is BuckCreek; Password is condos.

#### **New Business:**

**Proposed Budget:** We had a surplus this year of \$21,902, so Darrell is proposing that we keep the operating assessment increase at 0% but continue the 6% reserve increase for an overall increase of 1.25%. Darrell said that \$5400 of the surplus is due to the fact that the 3 decks planned to be replaced were not able to be replaced because the contractors were busy. Those funds can be used to replace 3 decks this coming year under Repairs and Maintenance. Ken Monnig moved to approve the budget; Nate Brightwell seconded. It was unanimously approved.

**Comcast:** There is a proposed increase in internet speed and a request that the Association sign a 5-year contract with Comcast at the same base price. Comcast is checking equipment to see if they can offer Buck Creek owners an internet speed increase, so that owners will have the choice of obtaining faster internet and X1 television service for an increased price. In order to bring the increased services to a unit, the owner requesting the upgraded service will have to pay Comcast to carefully increase the size of the hole for the cable to enter the unit from the outside, so that it can install its signal booster. Darrell will email owners about all of this, and we will put the letter on the website. This letter will also advise owners that each condo has always had two original cable outlets, one in the living room, and one in a bedroom, usually the master bedroom. If an owner has not located the second outlet, they should look for it.

**Unit Square-footage:** Jack and Deb McBride went to the Eagle County Tax Office and obtained the actual square footage for each condo unit as recorded on the original Association Declaration Amendment pages filed with the County. Somehow and sometime in the past, our accountants were given a slightly different square footage amount for many of the units. We are now being billed appropriately according to the square footage for each condo as recorded in the Declaration and original Amendments. Also, going forward, Vail Tax and Accounting will wait to bill the owners for the first quarter of the fiscal year- July 1 to Sept 30- until after the budget is approved at the annual meeting, so that we will know what the actual increase will be, rather than doing a catch up in the second quarter.

**Declarations:** the declared square footage per the Declaration pages is probably not completely accurate. Do we want to re-measure the condo units to be more accurate at a cost of approximately

\$10,000 and then we would have to amend the Declaration to reflect the actual square footage- a very onerous and expensive endeavor, which might cost yet another \$10,000? Paying for all of this would either require that the owners be specially assessed or would result in a decrease in our Reserve. The majority of owners voted NO to this process.

C Building Status: Last year we discussed redoing the stairs- would the Association be willing to fund an architectural study as to whether to build a bridge from the driveway to the deck in front of C201 to eliminate the stairs or to make the stairs more “user friendly”? Mike Moore moved to approve a study by an engineer, construction expert, or architect, as appropriate, at the Board’s discretion- Ken Monnig seconded- unanimously approved.

Gas to the complex: last information was that it would cost \$8,000-\$10,000 per each unit to bring gas service to each unit , then you have to bring it into each condo. It would be appropriate to form a committee of homeowners to see the feasibility and per owner cost of bringing gas to the units.

Annual or Semi-annual meeting in the winter: background- under the original Bylaws, the Association meeting is to be in June- it was moved to July to increase attendance. Kathleen Moore suggested a virtual meeting in January. A motion was made by Mike Moore to have a full meeting in January. Nate Brightwell seconded. One voted for, all others voted against, this motion. It failed.

Water shut-offs in A Building: Originally, in A Building, you had to go under the building, find your unit shut-off, then shut your water off. Buildings B and C have shut-offs in each unit. Now, every unit in the A Building has had a wireless, or other type of, shut-off installed, at a cost of approximately \$1,000 paid by the individual owners.

Service and Assistance Animals: The Board of Directors felt like it would be a good idea to know what was going on with every homeowner who receives, and is then required to properly handle, a request from a person with a disability to have a Service or Assistance Animal live or stay in their Buck Creek condo. A motion was made to require each such homeowner, or their managing agent, to notify the Board, by email, that the homeowner has received a request for a Service or an Assistance/Emotional Support Animal to live in their unit, including the unit number, the owner name, and the owner’s decision under the Association’s written Guidelines as to whether or not the animal and person meet the statutory requirements for the animal to live in the condo because it is a qualified Service or Assistance/Emotional Support Animal. Julie moved to approve this new procedure; Ken Fishleigh seconded the motion. There was one opposed, all others were for, it was approved.

Remodeling: Julie Mackay Percy said that that Board was considering new Rules to better implement the requirements in the Declaration that owners must do nothing to impair the structural integrity or soundness of any building at Buck Creek. The proposed rules will require owners to provide the Board (or Architectural Committee, if any), prior to the commencement of any work, with plans and permits for all proposed interior remodeling or construction in their units. The Board will then have an architect review the proposed plans and work. The owner would have to pay a fee for the cost of the architectural review of the proposed plans and work. If there is no possible impairment to the structural integrity or soundness of the building in which the condominium is located, the Board would approve

the proposed work and the owner could have the work done strictly in accordance with the approved plans.

Bike Parking: the Association manager will send out another notice about abandoned bikes on the bike rack. If that doesn't result in owners claiming their bikes, the unclaimed bikes will be removed on August 1<sup>st</sup>.

Flood in Building B: On Labor Day (9/1/18) the toilet in the top floor bathroom of Unit B301 flooded B301, B201 and B101. Darrell called the owner of B301, Ed Clark, and Ed approved Darrell retaining contractors to mitigate the water problems. SteamMaster was hired to do the water removal and mitigation; Shaw Electric was retained to do the necessary electrical work for additional power and wiring replacement for heat by the time the weather turned cold; and Steve Siska was retained to do necessary remedial demolition and construction work. Scott Friedman (B101) had only \$25,000 of insurance, which was insufficient to repair his unit and less than the coverage required by the Buck Creek Rules and Regulations, and he sold his condo in "as is" condition. It has been remodeled and is currently on the market. B-201 is still being evaluated. may have additional water damage problems.

In the fall of 2018, SteamMaster took the position that the bills of almost \$50,000 for its water mitigation work in B201 and B101 had to be paid by the Association, even though it was not at all the responsibility of the Association to pay any part of those bills, and even though, under the Association's governing documents, the bills were the responsibility of the Clarks, since a failed toilet valve in their unit caused all the damage. SteamMaster threatened to put liens on Units B101 and B201. The insurance company for the Clarks, Acuity Insurance, assured the Board in two written emails that it would reimburse the Association in full for the SteamMaster bills if the Association paid them. In reliance on these assurances, the Board voted to pay the two SteamMaster bills. Immediately after the bills were paid, Acuity demanded that the Association sign a very broad and overreaching Release for any and all responsibility of Acuity and the Clarks for any and all damage resulting from the valve failure, including all damage to Units B101 and B201. Of course, the Association would not, should not, and could not sign such a Release, and Acuity refused to negotiate any changes to it. Acuity also then refused to reimburse the Association the \$50,000. Nate Brightwell emphasized that the Board is not ready or able to release Acuity to this great extent.

There was a lot of discussion of this situation. Ed Clark said that he and Joni were very sorry about all of this and that they thought that their insurance would pay. Unfortunately, their insurance is taking the position that it does not have to pay. Ed's attorney said that they should just let all of this play out and that Ed could not go against his own insurance company.

Darrell said that the Association could put a lien on the Clarks' unit in the amount of the payment to SteamMaster. He said that, if a lien was not put on soon, Ed could go right out and get a 100% mortgage on his condo and then there would be no equity in his unit to cover the lien. Discussions continued. In order to focus the discussion, Julie Percy made a motion to authorize the Board and the Association's attorney to file a lien on B-301 for the amount of the payments to SteamMaster and the Association's other expenses from this matter. Ken Fishleigh seconded, as did Nate Brightwell. All but one owner

voted in favor of the motion; Julie abstained from voting because she did not think it was necessary for the Association to file a lien yet. The motion passed.

Julie said that the question had arisen as to whether the Association should consider filing a claim on the Association's insurance policy for the amount of the SteamMaster payments. Julie said that she, Jack, and Darrell had confirmed with the Association's insurance advisor, who is also an attorney, that the Association's insurance does NOT cover any damage to the interior of any condo which is not due to any problem from Association property, or any damage resulting from a failure, malfunctioning, mistake, or any other cause originating in an individual unit. She said that it would be a very bad precedent for the Association to ever file a claim for any damage like this that was not caused by the Association's property or work, because this would lead to future similar claims. The result of this approach would be that the Association policy coverage and our Association insurance premiums would increase substantially because of all the additional risk the Association had decided to take on. Darrell noted that the Rules were very clear about the responsibility for the damage.

**Election of Directors:** Currently the people serving on the Board of Directors are Jennifer Beaupre, Ken Fishleigh, Nate Brightwell, Jack McBride, Kathleen Moore, and Julie Mackay Percy. Jennifer's and Ken's terms are up with this meeting. Jennifer is leaving the Board and Ken Fishleigh agreed to serve another two-year term. Mark Millar agreed to be on the Board. Motion to elect Mark Millar and Ken Fishleigh to two-year terms on the Board was made by Mike Moore; Lisa DeMeillac seconded. They were elected unanimously.

**Meeting Adjourned:** Gordon Poeschel moved to adjourn, and Lisa DeMeillac seconded. The meeting was adjourned at 12:35 pm.

Minutes are submitted by:

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Kathleen H. Moore, Secretary

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Date